

Message Text

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TO SECSTATE WASHDC 2964
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E.O. 11652: N/A
TAGS: CARR
SUBJ: LEGAL REPRESENTATION IN CONSULAR DISTRICT

REF: STATE 147704

1. ANSWERS BOTH PGH 2(A) AND (B) ARE YES.

2. PUBLIC DEFENDER PROVIDED GRATIS IF NEEDED TO AMCITS
ACCORDING TO ART. 36, CODE OF CRIMINAL PROCEDURES LAW#131
OF 1948. FURTHER, ART. 177 OF CRIMINAL PROCEDURES REGULATIONS
STATES COURT SHALL INFORM DEFENDANT WITHOUT DELAY SO HE CAN
HIRE LAWYER OR, IF UNABLE, REQUEST COURT TO APPOINT (AND PAY)
DEFENSE COUNSEL.

3. PGH 3: MAJORITY OF THIS CONSULAR DISTRICT'S ARRESTS ARE
IN KOBE. PUBLIC DEFENDER HERE IS CHOSEN BY COURT FROM AMONG
THE MAJORITY OF LOCAL BAR MEMBERSHIP WHO HAVE EXPRESSED
WILLINGNESS TO HANDLE CASES OF INDIGENTS. ASSIGNMENT IS
MADE BY MUTUAL AGREEMENT AND ONLY IF LAWYER DOES NOT HAVE FULL
CASELOAD. COURT PAYS 30,000 YEN(\$110.) PER CASE, WHICH IS LESS
THAN NORMAL LEGAL FEE. ALMOST ALL LAWYERS AVOID AMERICAN
INDIGENT CASES HOWEVER, BECAUSE OF LANGUAGE BARRIER EXCEPT IN
FEW CASES WHERE INTERPRETER IS AVAILABLE. THUS INDIGENT AMCITS,
PRIMARILY MERCHANT SAILORS AND SOMETIMES STUDENTS ARE OF
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PAGE 02 OSAKA 00548 070741Z

PRACTICAL NECESSITY USUALLY REPRESENTED BY THE ONE ENGLISH-
SPEAKING JAPANESE LAWYER WHO SPECIALIZED IN CRIMINAL LAW, OR
BY THE TWO ENGLISH-SPEAKING JAPANESE LAWYERS WHO SPECIALIZE
IN CIVIL LAW. SINCE THE MAJORITY OF ARREST CASES CONCERN
POSSESSION AND/OR SALE OF DRUGS THE COURT USUALLY APPOINTNTS THE
CRIMINAL LAWYER (HAYASHI, MITSUO AS NOTED IN OUR LIST OF LAWYERS),
WHO IS ONE OF THE MOST RESPECTED MEMBERS OF THE KOBE BAR.

AS HIS SHARE OF ALL INDIGENT CASES (JAPANESE AND FOREIGN) IS LESS THAN FIVE PERCENT OF HIS TOTAL CLIENTELE, IT IS CLEAR THAT HE DOES NOT MAKE A LIVING FROM INDIGENT AMCITS.

4. SIMILAR LEGAL PROCEDURES EXIST IN KYOTO, OSAKA, NAGOYA AND HIROSHIMA, CITIES WHICH, COMBINED WITH KOBE, HAVE ACCOUNTED FOR ALMOST ALL ARREST CASES IN RECENT YEARS.

5. POST INSTITUTIONAL MEMORY NOTES THAT OF THE AVERAGE TWELVE ARREST CASES ANNUALLY IN DISTRICT MOST REQUIRED PUBLIC DEFENDER AND MOST TRIALS RESULTED IN CONVICTIONS AND SUSPENDED SENTENCES, FOLLOWED BY DEPORTATION. PROSECUTOR HAS DROPPED A FEW CASES HOWEVER.

6. IN VIEW OF THE FOREGOING, PLUS FACT THAT JAPANESE AUTHORITIES IN THESE CASES STRONGLY PREFER DEPORTATION OF FOREIGNERS RATHER THAN INCARCERATION (SEE FOLLOWING PGH), POST BELIEVES INDIGENT AMCITS ARE THUS GIVEN FAIR AND ADEQUATE TREATMENT IN THIS DISTRICT. CONGEN PERSONNEL WHO HAVE ATTENDED TRIALS, ALTHOUGH LAYMEN, HAVE HAD NO IMPRESSION OF OTHER THAT CAPABLE REPRESENTATION OF DEFENDANTS.

7. FYI: JAPANESE IMMIGRATION AUTHORITIES USUALLY DEPORT FOREIGNERS WHO ARE UNDER INVESTIGATION BY PROSECUTOR'S OFFICE AND WHO APPEAR GUILTY, IF THERE IS A VIOLATION OF VISA REGULATIONS (E.G., AMCITS WHO WORK AS BAR GIRLS WHILE ON UNCLASSIFIED

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PAGE 03 OSAKA 00548 070741Z

TOURIST VISAS). ONCE INDICTED HOWEVER, TRIAL PROCEEDS TO CONCLUSION AND, IF GUILTY AND SENTENCE SUSPENDED, DEPORTATION IS IMMEDIATELY MADE ON GROUNDS OF VISA VIOLATION.
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